

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DONALD TRIMBLE,

Plaintiff,

vs.

KILOLO KIJAKAZI, Acting  
Commissioner of Social Security,

Defendant.

8:23-CV-161

ORDER

This matter is before the Court on the Magistrate Judge's findings and recommendation ([filing 20](#)) recommending that the plaintiff's motion for an order reversing the Commissioner's decision ([filing 10](#)) and the Commissioner's motion to remand ([filing 16](#)) be granted. Neither party has objected to the findings and recommendation. See [NECivR 72.2\(a\)](#).

[Title 28 U.S.C. § 636\(b\)\(1\)](#) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. [NECivR 72.2\(f\)](#). The parties were expressly advised that "failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation." [Filing 20 at 9](#). And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); see also *United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006).

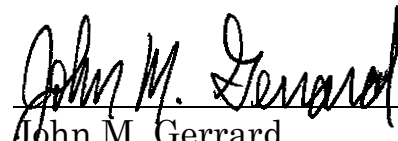
Accordingly, the Court will adopt the Magistrate Judge's recommendations, and any objection is deemed waived.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation (filing 20) are adopted.
2. The plaintiff's Motion for an Order Reversing the Commissioner's Decision (filing 10) is granted.
3. The Commissioner's Motion to Reverse and Remand Pursuant to Sentence Four of 42 U.S.C. § 405(g) (filing 16) is granted.
4. This case is remanded to the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g) for further proceedings before a different, constitutionally appointed administrative law judge.
5. A separate judgment will be entered.

Dated this 6th day of November, 2023.

BY THE COURT:

  
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John M. Gerrard  
Senior United States District Judge